

## LABOUR AND EMPLOYMENT DEPARTMENT

The 2nd June, 1978

No. 12(188)-78/7Lab.—In exercise of powers conferred by sub-section (1) of section 13 of the Employee's Provident Fund and Misc. Provisions Act, 1952, the Governor of Haryana is pleased to appoint Shri S. S. Chatterjee to be Inspector for whole of the State of Haryana for the purposes of the said Act, and the three Schemes framed thereunder viz. the Employees Provident Fund Scheme, 1952, the Employees' Family Pension Scheme 1971 and Employees' Deposit-Linked Insurance Scheme, 1976, in relation to establishments other than those belonging to or under the control of, the Central Government, or in relation to any other establishment connected with a railway company, a major port, a mine or an oil field or a controlled industry or in relation to an establishment having departments or branches in more than one State.

G. V. GUPTA, Secy.

## LABOUR DEPARTMENT

The 26th May, 1978

No. 11(112)-3 Lab.-78/5255.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s. Chinaria Transport Company Regd. Charkhi Dadri:—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 112 of 1970

between

THE WORKMEN OF M/S. CHINARIA TRANSPORT CO. REGD., CHARKHI DADRI AND  
THE MANAGEMENT OF M/S. CHINARIA TRANSPORT CO. REGD.,  
CHARKHI DADRI

## AWARD

By order No. 203-SF-3Lab. I-64/10613-A, dated 5th May, 1964, the Governor of Haryana re-referred the following dispute between the management of M/s. Chinaria Transport Company Regd. Charkhi, Dadri and its workmen Sarvshri Hans Raj, Ram Kishan, Puran Chand drivers, Hardev Parshad, Kailash Chander, Rup Chand conductors and Ram Lal to this Court for adjudication in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, after the earlier reference made to Shri P.N. Thukral the then Presiding Officer, Labour Court, Haryana, Rohtak against the aforesaid management and the management of Dadri Roadways (P) Ltd., Charkhi Dadri in respect of the aforesaid dispute,—*vide* order number 6091-E-Lab-70/22387, dated 31st July, 1970 had been held to be illegal by the Honourable the Punjab and Haryana High Court on the ground that the appointment of Shri P.N. Thukral as Presiding Officer, Labour Court was not in accordance with the mandatory provisions of sections 7(1) and (3) of the Industrial Disputes Act :

"Whether the termination of services of Sarvshri Hans Raj, Ram Kishan, Puran Chand drivers, Hardev Parshad, Kailash Chander, Rup Chand, conductors and Ram Lal pilman is justified and in order, and if not, to what relief they are entitled."

The parties put in their appearance in this Court in response to the usual notices of the re-referred reference and the workmen alleged,—*vide* claim statement dated 21st September, 1970 filed by them that they had been illegally dismissed from service by the management,—*vide* their order dated 16th October, 1963 without any chargesheet being framed and served on them and that each one of them was entitled to reinstatement with continuity of service and full back wages.

The management of M/s. Chinaria Transport Co. resisted the reference on the preliminary ground that the reference was bad in law for the reasons of being in respect of demand note served on them after the earlier settlement and before the reference and for reasons of the demand initially served on them on 19th November, 1963 being illegal and ineligibility of an individual workman to serve the demand. The aforesaid management pleaded that there was no relationship of employer and employee between them and the workman concerned and the latter were in fact employees of M/s. Dadri Roadways (P) Ltd., and the Labour Court had thus no jurisdiction to adjudicate the dispute and the demand of Hans Raj workman had been withdrawn and the reference was barred on principles of *resjudicata*. They stated that the reference was vague and that the workman abandoned their jobs while being employee of M/s. Dadri Roadways (P) Ltd., Charkhi Dadri and were at no stage their (M/s. Chinaria Transport Co. Regd., Charkhi Dadri) employees and they never terminated their services. They added that they lost confidence in Kailash Chander workman as a result of the complaints made by him against them to

different authorities and he was not entitled to reinstatement on that ground and that the workman should be directed to implead M/s. Dadri Roadways (P) Ltd., as a party and that the reference was bad in law for want of a prayer by the workman for relief against M/s. Chinaria Transport Co. Regd., Charkhi Dadri and want of an allegation against them and non-recognition by them of that (M/s. Chinaria Transport Co. Regd. Charkhi Dadri) management.

The workman concerned reiterated the allegations made by them in the claim statement and controverted the pleas of the management mentioned in their written statement—*vide* rejoinder filed by them, with the result that the following issues were framed on pleas of the parties,—*vide* order dated 27th August, 1971 of the then Presiding Officer, Labour Court, Haryana :—

1. Whether the present reference is not valid because a similar reference was pending in the Labour Court constituted,—*vide* Gazette Notification No. 11495/12474-C. Lab.-57/11345, dated 7th February, 1958 ?
2. Whether the present reference is barred by principles of *resjudicata* ?
3. Whether it is necessary to implead the Dadri Roadways (P) Ltd., Charkhi Dadri as a respondent in this case ?
4. Whether the present reference cannot be adjudicated upon because it has not been stated on behalf of the claimant as to which employer has wrongfully terminated their services and, therefore, their re-instatement is not possible ?
5. Whether the claim of the applicant is also liable to be rejected on the ground that no relief has been claimed against M/s. Chinaria Transport Co. (Regd), Charkhi Dadri ?
6. Whether the applicants are not entitled to any relief because they did not recognise M/s. Chinaria Transport Co. as their employer and thus denied the relationship of master and servant ?
7. Whether the dispute with regard to the alleged wrongful dismissal and the question of re-instatement can not be adjudicated upon because the workman concerned did not recognise M/s. Chinaria Transport Company as their employers ?
8. Whether the claim of Shri Hans Raj was not pressed and was withdrawn and, therefore, the claim on behalf of Shri Hans Raj can not be adjudicated upon ?
9. Whether the termination of services of Sarvshri Hans Raj, Ram Kishan, Puran Chand, Driver, Hardev Parshad, Kailash Chander, Rup Chand, Conductors and Ram Lal Oilman is justified and in order and, if not, to what relief they are entitled ?
10. Whether Shri Kailash Chander and other applicants are not entitled to be reinstated even if their original termination of service is held to be invalid because the management have lost confidence against them for the reasons mentioned in the additional plea filed on 13th October, 1970 ?

I have gone through the written arguments submitted by them. I decide the issues as under :—

#### Issues No. 3, 4, 5, 6 and 7

These issues being interconnected shall be decided and disposed of by me together. It would appear from the re-reference made to this Court that the appropriate Government impleaded the management of M/s. Chinaria Transport Co. Charkhi Dadri only as a party in the case without impleading M/s. Dadri Roadways (P) Ltd., as such, admittedly impleaded as a party in the earlier reference, the workman concerned would thus be entitled to relief only if they established that they were the employees of M/s. Chinaria Transport Co. and the latter terminated their services and that they would not be entitled to any relief in absence of such a proof. The short question requiring determination under the circumstances for disposing of this reference would be to find out if the workman concerned were factually employees of M/s. Chinaria Transport Co. (hereinafter referred to as the management) and the latter terminated their services as such. I, thus, now propose to resolve this controversy as under with reference to the evidence led by the parties.

It would be interesting to note that the workman concerned while submitting their claim statement dated 21st September, 1970 after the re-reference of the dispute was made, remained contented by merely alleging that the management dismiss them from service without stating the name and style of the management which actually terminated their services even though in the heading of the claim statement they mentioned both these managements as being parties to the case, against actual fact that only the management of M/s. Chinaria Transport Co. had been impleaded as a party in the re-reference. Such an important omission in the claim statement well indicated that the workman were not sure of the management which terminated their services and which were liable to grant

them the relief asked for. None of the workmen independently made any effort to get the re-reference amended by the appropriate Government so as to implead the management of M/s Dadri Roadways (P) Ltd as a party in the case.

The management examined Shri Roshan Lal their Chairman MW-3 and Munshi Ram Aggarwal their Managing Director MW-1 and brought on record documents Exhibit M-1 to M-15. The aforesaid witnesses set up a case at the evidence stage that the management purchased three bus and three route permits from M/s. Dadri Roadways (P) Ltd. and the services of the workmen concerned were transferred to them and that the latter abandoned their jobs voluntarily on 16th October, 1963. Shri Jagdish Kumar Chinaria partner of the management appearing as MW- gave out that after the purchase of buses and route permits by the management of M/s Chinaria Transport Co. the workmen on 16th October, 1963 refused to recognise the management as their employers and absented themselves from duty w.e.f. that date, and the telegrams sent to the workmen informing them that their action was not justified were not accepted by them. The workmen admitted, —vide letter Exhibit W-1 dated 18th October, 1963 addressed by them to the President of the Union of Haryana Transport Workers Union Rohtak that they were the employees of M/s. Dadri Roadways (P) Ltd. They further prayed for assignment of duties to Dadri Roadways (P) Ltd, Charkhi Dadri, —vide letter Exhibit W-4. They designated themselves as workers of M/s Dadri Roadways (P) Ltd., Charkhi Dadri in the complaint dated 18th November, 1963 contained in the file of Labour Inspector Exhibit MW-5/1 complaining to the Labour Inspector that the Dadri Roadways (P) Ltd had not made payment to them of their wages. The Labour Officer made a report Exhibit M-4 that the workmen concerned did not recognise M/s Chinaria Transport Co. as their employer. The Labour Inspector, —vide letter addressed by him to the Labour Commissioner contained in the file Exhibit MW-5/1 made it clear that the workman concerned did not recognise M/s Chinaria Transport Co. as their management. Shri D.M. Gupta, Sub-Post Master, Dadri proved, —vide his statement dated 12th January, 1967 that the reports relating to the refusal of the workmen to receive the registered letters and the telegrams on the address C/o M/s. Chinaria Transport Co. were in the hand writing of Shri Suraj Bhan Postman.

Shri Roshan Lal Chinaria, chairman of the management examined as MW-1 deposed that the workman concerned refused to work on 16th October, 1963 saying that they were the employees of M/s. Dadri Roadways (P) Ltd. and not of M/s Chinaria Transport Co. The suggestion made to Shri Roshan Lal Chinaria MW-7 in cross-examination by the workman led to a conclusion that they wanted to establish that the Chinaria Transport Co. was never in existence when the buses were allegedly purchased by them and there was no relationship of Master and servant between them and the management. Shri Hans Raj workman concerned applied for grant of leave to M/s. Dadri Roadways (P) Ltd., —vide telegram contained in the envelope Exhibit M-46/1. Shri Hardev Parshad workman concerned examined as AW-1 on 22nd October, 1968 admitted that the employer of the workmen were the Managing Director of M/s. Dadri Roadways (P) Ltd., The management are found to have taken a consistent stand before the Labour Officer and the Labour Inspector that the workman did not recognise them as their employer. The workmen are found to have stated expressly before the Labour Officer and taken a stand that they were the employees of M/s. Dadri Roadways (P) Ltd during the conciliation proceedings as is found disclosed from the file Exhibit MW-5/1.

It would thus appear that there is ample evidence on record in the form of the admissions of the workmen concerned made by them from time to time before the Labour authorities and to the management concerned, —vide their own letters that they refused to recognise the management M/s. Chinaria Transport Co. as their employers on 16th October, 1963 and there after besides the evidence of Sarvshri Roshan Lal, Jagdish Chader and Shri Jagan Nath Gupta and the documents Exhibit M-3, M-48, M-49 and Exhibit M-50 to that effect.

Even the workmen admitted in written arguments submitted by them that in absence of a formal legal transfer of business of M/s. Dadri Roadways (P) Ltd. in favour of M/s. Chinaria Transport Co. in the books of Regional Transport authorities the former continued to run the business in their own name till January, 1964 and that they were never informed that the latter had taken over the business of the former. It is thus manifest on their own showing that M/s. Dadri Roadways (P) Ltd. formally and legally continued to run the business till 16th October, 1963 when the services of the workmen are alleged to have been terminated and that M/s Chinaria Transport Co. could not be held liable till the transfer was actually mutated in their name with the consent and under the orders of Regional Transport authorities. The workmen explained that they made complaint against Dadri Roadways (P) Ltd., in respect of termination of their services on 16th October, 1963 only because they were not served with about change of their employers. The mere circumstance that the workmen did not deny M/s. Chinaria Transport Co. as their employers during the period from 1st May, 1963 to 16th October, 1963 does not in any way legally take away the effect of their admissions made by them after 16th October, 1963 before the Conciliation authorities and to the management of M/s. Dadri Roadways (P) Ltd., that they continued to be the employees of the latter, I am thus convinced that there is over whelming evidence on record that the workmen declined to recognise M/s. Chinaria Transport Co. as their employers on 16th October, 1963 and thereafter and continued to be in service of M/s. Dadri Roadways (P) Ltd., till 16th October, 1963, and thereafter. I, hold accordingly.

There is no documentary evidence on record that M/s. Chinaria Transport Co., ever terminated the services of the workmen concerned. I, on the other hand while relying on the testimony of Shri Jagdish Kumar Chinaria MW-11, Shri Roshan Lal and Shri Munshi Ram, hold that the workmen absented themselves from duty on 16th November, 1963 while declining to recognise M/s Chinaria Transport Co. as their employers and continued to make complaints to M/s. Dadri Roadways (P) Ltd. for relief recognising the later as their employers.

In view of the findings of fact made by me the reference made only against M/s Chinaria Transport Co. without impleading M/s Dadri Roadways (P) Ltd. is bad in law and no effective adjudication of the dispute can be made and no relief can be granted to the workman against M/s Chinaria Transport Co. I, thus decide all these issues in favour of the management.

In view of my findings on issues Nos. 3 to 7 no other issue need be decided and none of the workmen concerned is obviously entitled to any relief. I, hold accordingly and answer the reference while returning the award in these terms.

Dated the 9th May, 1978.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court Haryana,  
Rohtak.

No. 1232, dated 16th May, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

Dated, the 9th May, 1978.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court Haryana,  
Rohtak.

No. 11(112)-3Lab-78/5292.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana, is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s. Balco Pharma Dawa Factory, Bahadurgarh :—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA ROHTAK.

Reference No. 136 of 1977

between

SMT. SHANTI DEVI WORKWOMAN AND THE MANAGEMENT OF M/S. BALCO PHARMA DAWA FACTORY, BAHADURGARH.

#### AWARD

By order No. ID/RK/357-77/46952, dated the 27th October, 1977, the Governor of Haryana referred the following dispute between the management of M/s Balco Pharma Dawa Factory, Bahadurgarh and its workwoman Smt. Shanti Devi to this Court for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

“Whether the termination of service of Smt. Shanti Devi was justified and in order ? If not, to what relief is she entitled ?

The parties put in their appearance in this Court on 21st February, 1978 in response to the usual notices of reference sent to them and filed their pleadings giving rise to the following issues framed by me,—*vide* order dated 21st February, 1978 :—

1. Whether the applicant was an employee of the management concerned as a workwoman within the definition of this term as given in section 2(s) of the Industrial Disputes Act, on 21st July, 1977, the alleged date of termination of her services?
2. If yes, whether the termination of service of Smt. Shanti Devi was justified and in order ? If not, to what relief is she entitled ?

The management, however, failed to appear in this Court on 5th April, 1978, the adjourn hearing of the case despite being directed to be present on that date and defend the demand relating to the reinstatement of the workwoman concerned served on them,—*vide* my order, dated the 21st February, 1978 with the result that *ex parte* proceedings were taken up against them on the former date and the workwoman was directed to adduce her *ex parte* evidence on 16th May, 1978.

Smt. Shanti Devi workwoman concerned appearing as her own witness on 16th May, 1978 deposed that she joined the services of the management concerned in March, 1976 as a helper on wages of Rs. 150/- per month and that her services were illegally terminated by them with effect from 2nd July, 1977, without their holding enquiry against her or serving any charge-sheet on her. She brought on record copy of the report of the Conciliation Officer showing her allegations made by her before him that she was receiving Rs. 150/- as her wages and the denial of the management of her being their 'employee.

I, see no reasons to disbelieve the statement of the workwoman concerned particularly when the same has remained un rebutted and the management have taken no care to defend the demand raised by her on them in respect of her reinstatement with continuity of service and full back wages.

I, therefore, relying on the statement of the workwoman concerned hold that her services as a helper on wages of Rs. 150/- were illegally terminated by the management concerned with effect from 2nd July, 1977 and that she is legally entitled to reinstatement with continuity of service and full back wages and answer the reference while returning the *ex parte* award in these terms.

Dated, the 18th May, 1978.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1277, dated the 25th May, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 11(112)-78-3Lab-78/5296.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak. In respect of the dispute between the workmen and the management of M/s. Haryana Co-operative Sugar Mills, Ltd., Rohtak :—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK.

Reference No. 109 of 1975

between

SHRI INDRAJ SINGH WORKMAN AND THE MANAGEMENT OF M/S. HARYANA  
CO-OPERATIVE SUGAR MILLS, LTD., ROHTAK

AWARD

By order No. ID/RK/149-B-75/69823, dated 1st December, 1975, the Governor of Haryana, referred the following dispute between the management of M/s. Haryana Co-operative Sugar Mills Ltd., Rohtak and its workman Shri Indraj Singh to this Court for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :

Whether the dismissal of Shri Indraj Singh, Ex-Subedar was justified and in order ? If not, to what relief, is he entitled ?

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

Shri Indraj Singh alleged,—*vide* claim statement filed by him that he was dismissed from service as a Head Store-keeper by the management with effect from 1st July, 1975,—*vide* order, dated 21st June, 1975, illegally without holding any enquiry and without serving any charge-sheet on him, and that he was entitled to reinstatement with continuity of service and full back wages. He alleged that he joined his duties as Head Store-keeper on probation of one year on 4th July, 1973 and was confirmed,—*vide* order, dated 22nd June, 1974 of the Managing Director before the expiry of the period of probation of one year and that the cancellation of the order of his confirmation

by the succeeding General Manager, dated 3rd July, 1974 was illegal. He stated that in fact the period of his probation under the Standing Orders of the Management could legally be extended only for six months and could not be extended for any period and he shall be deemed to have been automatically confirmed after the expiry of the period of six months from the date of his appointment.

The management concerned while admitting the appointment of Shri Indraj Singh as a Head Store-keeper pleaded that he was not a workman within the definition of this term as given in section 2(s) of the Industrial Disputes Act and that the reference was bad in law on the additional ground that his services were terminated on account of unsatisfactory nature of his work within the extended period of his probation and that he was not dismissed from service. They set up a case that through unfair and dubious means Indraj obtained his confirmation order which was subsequently cancelled.

Shri Indraj Singh controverted the pleas of the management that he was still on probation on the date of termination of his services and reiterated that he was a confirmed employee on that day and that the order of his confirmation made by the competent authority could not legally be cancelled nor it could be legally extended.

The following issues were thus framed by me on pleas of the parties, *vide* order, dated 1st March, 1976:—

1. Whether Shri Indraj Singh is a workman within the definition of this term as given in section 2(s) of the Industrial Disputes Act ?
2. Whether the dismissal of Shri Indraj Singh is justified and in order ?

I have heard learned authorised representatives of the parties with reference to the evidence led by them and seen the records. I, decide the issues as under :—

#### Issue No. 1—

This is an important issue in the case. I consider it necessary to state in *extenso* the definition of workman as given in section 2(s) of the Industrial Disputes Act as under for deciding this issue :—

“Workman” means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an Industrial dispute any such person who had been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute or whose dismissal, discharge or retrenchment has led to that dispute ; but does not include any such person—

(i) \* \* \* \* \*

(ii) \* \* \* \* \*

(iii) \* \* \* \* \*

(iv) Who being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercised, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

Shri Indraj Singh workman concerned appearing as his own witness deposed that he was appointed as Head Store-keeper on 4th July, 1973 on basic wages of Rs. 255 P.M. besides dearness allowances of Rs. 144 P.M. and that he was in all getting Rs. 430 P.M. as his wages including all allowances on 1st July, 1975 the date of termination of his services. He gave out that his duties as Head Store-keeper were to make entries in the Store ledger, and personal ledger of the employees of the management, issue receipts and to maintain the aforesaid records besides maintaining Store demand register, Gas Cylinder register, delivery register, wagon receipt register and prepare gate passes and do other clerical work. He brought on record the documents, Exhibit W-1 to W-5.

He admitted in cross-examination that one Store issue clerk and two Store-boys worked under him during off season and one Store-boy and a clerk in addition worked under him during season and that whereas the Store-boys unpacked the stores received in bundles and placed the contents thereof at proper places, the Store Issue Clerk helped him in his work and he himself made entries in the records. He denied the suggestion that he received Rs. 521 P.M. as his total emoluments besides house rent allowance on the date of termination of his services or that his duties were of a supervisory nature, while admitting that he recommended the applications for grant of leave of Store-boys and Clerks working under him and made reports against them to the higher officers for their default and negligence in the performance of their duties, he gave out that he was not competent to sanction their leave. This is all the evidence led by the workman in support of this issue.

The management concerned in rebuttal examined Shri Suresh Kumar Jain, Clerk Time Office, MW-1 and Shri Attar Singh, Record Keeper, MW-2. Shri Suresh Kumar Jain deposed with reference to the pay sheets of June, 1975 of the employees of the management concerned including Shri Indraj brought by him in Court that Shri

Indraj was drawing Rs. 521 p.m. as his emoluments including dearness allowance during that month. While admitting that he could not tell the break up of the aforesaid amount gave out that this did not include the house rent for which separate regular column had been provided in the pay sheets. Shri Attar Singh MW-2 while giving out that Shri Indraj Singh was appointed as Store Officer on wages of Rs. 599 p.m. including all allowances stated that his duties were of a supervisory nature and that four clerks and four boys worked under him and that he recommended their leave applications and could initiate disciplinary action against them for misconduct and made postings of the entries relating to the store issued by the clerks in the store registers after duly checking the same and he himself allocated the duties of the members of the staff working under him. He denied the suggestion that his duties were not of a supervisory nature and asserted that he (Indraj) could sanction two days casual leave.

The admitted facts of the case emerging from the evidence led by the parties thus are, that Shri Indraj was appointed as Head Store Keeper,—*vide* letter, dated 4th July, 1973. One Store Issue Clerk and two Store boys during off season and three store boys and two clerks during seasons worked under him. Whereas the store boys unpacked the bundles and placed the contents thereof at paper places, the clerks made entries in the record maintained at the stores. Shri Indraj in his capacity as Head Store Keeper initiated disciplinary action by way of making reports against the store boys and the clerks for the defaults and negligence committed by them in the performance of their duties and he actually made such a report once against Shri Hans Raj and he recommended their leave applications. Even though Shri Indraj deposed that he as a Head Store Keeper made entries in the Store Ledger any personal ledger and different registers maintained in the stores and did other clerical work 'I cannot think of an occasion for him to do so in view of the admitted fact that one store issue clerk during off season and two clerks during seasons were provided to him for that purpose and there is no suggestion that the clerical work in the stores was so voluminous that one clerk during off seasons and two clerks during seasons could not complete that work. Even otherwise, I, see no reasons to disbelieve the statement of Shri Attar Singh Record Keeper that as many as four clerks were provided to Shri Indraj for doing clerical work in the store besides four store boys for doing unpacking work. The strength of the staff thus provided in the store under Shri Indraj was such as to leave no doubt in my mind that the duties of Shri Indraj were purely supervisory and not clerical requiring manual work. Even if Shri Indraj made a few entries and checked entries made by the members of the staff working under him that fact alone did not render his duties as clerical requiring manual work. The admissions made by Shri Indraj himself that he recommended the leave applications of the members of the staff working under him and initiated disciplinary action against them for their default and negligence in the performance of their duties further strengthens the conclusion already arrived at by me that his duties were of a supervisory nature and not clerical requiring manual work.

Even assuming that Shri Indraj did clerical work along with other clerks admittedly provided in the store by the management, the question requiring determination would even then be what were his main duties. In view of the admitted facts referred to above that a number of clerks were provided in the stores department and he recommended their leave applications and initiated disciplinary action against them. I, have no hesitation in my mind in holding that his main duties were of a supervisory nature even though he incidentally had to do some clerical work. This now brings me down to the determination of another important matter relating to the wages received by him every month in as much as he shall have to be held as a workman if he received wages less than Rs. 500 even if his duties were of a supervisory nature and otherwise if the wages paid to him were more than Rs. 500 p.m. Reference in this connection may be made to the statement of Shri Suresh Kumar Jain made by him with reference to the official records consisting of the pay sheets of June, 1975 prepared and brought by him in court that Shri Indraj was receiving Rs. 521 p.m. as his emoluments including dearness allowance. Nothing could be brought out in his cross examination leading me to suspect his evidence and the records brought by him. Not even a suggestion was made in the cross examination that the pay sheets brought by him were not genuine documents. The statement of Shri Attar Singh that Shri Indraj was appointed on total emoluments Rs. 599 p.m. though seemingly inconsistent with that of Shri Suresh Kumar Jain yet in view of the failure of the workman to elicit from him the reasons as how were these emoluments brought down to Rs. 521 in June, 1975 as deposed by Shri Suresh Kumar, it cannot be said that his statement is inconsistent with that of Shri Suresh Kumar and the possibility of the wages of Shri Indraj being brought down from Rs. 599 p.m. in July, 1973 to Rs. 521 p.m. during June, 1975 for reasons of commission of some misconduct or punishment awarded to him by the management for the same or for reasons of variation in the allowances made from time to time cannot be excluded and taken from any angle I am of the considered opinion while placing reliance on the statement of Shri Suresh Kumar made by him with reference to official documents that he was receiving Rs. 521 p.m. as his wages including all allowances during June, 1975. In view of the findings of fact already arrived at by me that his duties were of a supervisory nature, he is manifestly not a workman within the definition of this term as given in section 2(s) of the Industrial Disputes Act and reproduced above verbatim. I, therefore, decide this issue against Shri Indraj Singh.

Issue No. 2—

Shri Indraj Singh was admittedly appointed,—*vide* letter Exhibit W-1 as a Head Store Keeper on probation of one year. Whereas he alleged that he was confirmed by the General Manager,—*vide* letter, dated 22nd June, 1974 brought by him on record through remained unexhibited, the management set up a case that this order was obtained by him on misrepresentation made to the General Manager that the Board of Directors had accorded approval of his confirmation and that on the truth and correct facts being disclosed subsequently that the Board of Directors had not granted approval of his confirmation the then General Manager cancelled the order, dated

22nd June, 1974 relating to confirmation of Shri Indraj,—*vide* his order, dated 11th July, 1974 Exhibit W-5. In view of the admission of the parties that the General Manager confirmed Shri Indraj,—*vide* letter, dated 22nd June, 1974, I have exhibited it as W-6 for facility of reference.

Shri Attar Singh MW-2 deposed that Shri Indraj Singh obtained a letter of confirmation of his services from the Managing Director on 22nd June, 1974 on a misrepresentation that the Board of Directors had adopted a resolution of his confirmation and that on coming to know that no such resolution had been adopted the succeeding Managing Director withdrew the order, Exhibit W-6, dated 3rd July, 1974,—*vide* his order, dated M-1. The witness Shri Attar Singh or any other official of the management is not even alleged to be inimical to Shri Indraj much less proved and not even a suggestion was made in his cross examination in this connection, and Shri Indraj did not even deny having obtained orders of his confirmation a misrepresentation even though this has been duly pleaded by the management in their written statement. I, under the circumstances see no reasons to disbelieve the statement of Shri Attar Singh and placing full reliance on the same and in absence of denial of the plea of the management by Shri Indraj in his statement hold that the later obtained the order, Exhibit W-6 on a misrepresentation and that the management justifiably cancelled it,—*vide* order Exhibit M-1 and expended his probation till 7th April, 1974 for further period of one year,—*vide* order, Exhibit W-2. No document, agreement, materially or provisions of law could be referred to me by Shri Indraj in justification of the contention put forth by him before me during arguments and,—*vide* rejoinder filed by him, that the period of his probation could in the maximum be for six months and that the same initially fixed for one year,—*vide* letter Exhibit W-1 could not legally be extended for another one year,—*vide* order, Exhibit W-2. I, thus hold that Shri Indraj was on probation at the time of termination of his services made by the management,—*vide* order, dated 21st June, 1975, Exhibit W-4.

The management could well in law terminate the services of Shri Indraj Singh during the period of his probation for any reasons considering just by them including the unsatisfactory nature of his work and conduct and I do not think that they were under any obligation to chargesheet him and hold an enquiry for terminating his services so long as he was on probation and had not been confirmed and was not dismissed from service as a result of commission of major misconduct. I, thus decide this issue also in favour of the management.

In view of my findings on issues No. 1 and 2 the termination of services of Shri Indraj is obviously justified and in order and he is not entitled to any relief. I, hold accordingly while returning the award in these terms.

Dated the 12th May, 1978.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1275, dated the 20th May, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments as required under Section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

G. V. GUPTA, Secy.

#### SOCIAL WELFARE DEPARTMENT

The 8th June, 1978

No. 2424-SW4-78.—To emphasise the need for a focus and a forum for planning, review and co-ordination of multiplicity of services striving to meet the needs of children and to provide this focus and such a forum, the Governor of Haryana is, therefore, pleased to constitute the State Children's Board consisting of the following members:—

- |   |                  |
|---|------------------|
| 1. Chief Minister, Haryana  | .. Chairman      |
| 2. Social Welfare Minister, Haryana   | .. Vice-Chairman |
| 3. Vice Chairman, Planning Commission   | .. Member        |
| 4. Commissioner and Secretary to Government, Haryana, Finance Department.       | .. Member        |
| 5. Commissioner and Secretary to Government, Haryana, Social Welfare Department | .. Member        |

6. Director, Health Services, Haryana	..	Member
7. Director, Public Relations, Haryana	..	Member
8. Director, Public Instruction, Haryana	...	Member
9. Dr. Jai Dev, C/o Laxmi Medical Hall, Ambala Cantt.	..	Member
10. Shrimati Shanti Tayal, W/o Shri Baldev Tayal, Hansi (Hissar)	..	Member
11. Shri Har Sawarup Bura, M. L. A., Maham.	..	Member
12. Shri Jai Narain Verma, M.L.A., Barwala.	..	Member
13. Chairman, Haryana State Social Welfare Advisory Board	..	Member
14. Chairman, Haryana State Council for Child Welfare	..	Member
15. Joint Director, Social Welfare Department, Haryana	..	Member
16. Director, Social Welfare, Haryana.	..	Member Secretary

2. The functions of the Board shall be: —

- (i) to create and sustain public awareness of the needs of children in general;
- (ii) to coordinate and integrate the efforts made by different Governmental and private agencies engaged in implementing programmes for the welfare of children;
- (iii) to review periodically the progress made in the different programmes;
- (iv) to locate gaps in the existing services and suggest measures for eliminating such gaps;
- (v) to suggest from time to time any changes needed in the priorities accorded to the different programmes;
- (vi) the functions of the Board will be advisory and co-ordinational; and
- (vii) to chalk out plans and programmes to observe at the State level, "1979 International year of the Child", liaise and co-ordinate with voluntary bodies, public institutions and others in the observance of "1979 International year of the Child".

3. The term of the Board will be 2 years.

4. The Board shall ordinarily meet once a year and the Headquarters of the Board will be at Chandigarh.

5. The official members shall draw T.A. and D.A. from their respective Departments.

6. Non-officials other than M.L.As/M. Ps will draw T. A. at one 1st Class Railway Fare plus incidental allowances and road mileage as well as daily allowances as admissible to a 1st grade Government employee drawing a pay of Rs. 1,000. The other conditions laid down in the T. A. Rules for Government employees will also apply to journeys performed by non-official members except where otherwise provided.

7. The expenditure involved shall be debitable to the Head "288—Social Security and Welfare-D- Social Welfare-I-D-Direction and Administration—(i) Staff for Headquarter—Travel Expenses—Non-Plan".

8. This issues with the concurrence of the Finance Department conveyed,—vide their U.O. No. 1276-3FGII-78, dated 25th/26th April, 1978.

The 8th June, 1978

H. V. GOSWAMI

Commissioner and Secy.